Revisiting *Beyond Accommodation* after Twenty Years

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Beyond Accommodation was part of the *Thinking Gender* series in which a number of feminist theorists and philosophers questioned the adequacy of essentialist or empirically based notions of gender as foundational to feminist theory and practice.[1] The very notion of being gendered was critiqued as a kind of prison in which women could not break out of a symbolic order that stamped them with a certain kind of being in the world. Many feminists built on Judith Butler's path-breaking notion of gender as performance, to challenge the idea of "woman," or even a conception of any shared reality of "woman" that could be the basis of some kind of account of gender that could give us a comprehensive notion of women's oppression and women's freedom.[2] Before turning to the trajectory of my work, I need to say something about my own political background, because it will help illuminate why I wrote of "ethical feminism" from the beginning.

First, and most importantly, my work as a theorist is deeply influenced by my activism in Marxist-Leninist groups throughout my twenties. Unlike many of my generation, Icontinue to consider myself a kind of Marxist, and certainly someone committed to socialist transformation. The reason I

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[1] Drucilla Cornell, *Beyond Accommodation: Ethical Feminism, Deconstruction and the Law*. New York: Routledge, 1991. *The Thinking Gender* series was edited by the feminist scholar Linda Nicholson and promoted and protected by Maureen MacGrogan, who was then an editor at Routledge Press. Nicholson's edited collection, *Feminism/Postmodernism*, helped situate the series. *Feminism/Postmodernism*. Ed. Linda Nicholson. New York: Routledge, 1989.

[2] Famously, Butler argued that any concept of woman would be infused with heteronormativity, and that gender was not a given, but was instead a set of performances that, as they were repeated, could also shift in their meaning through their very iterability. See Judith Butler, *Gender Trouble: Feminism and the Subversion of Identity*. New York: Routledge, 1989; *Feminists Theorize the Political*. Ed. Judith Butler and Joan Scott. New York: Routledge, 1992; and Denise Riley, *"Am I That Name?" Feminism and the Category of "Women" in History.* Minneapolis: University of Minnesota Press, 2003.

bring up my activism is because, although I have never forsaken the view that there are conditions in which armed struggle is absolutely necessary for liberation, I became very concerned with the acceptance by the groups of which I was a part of the idea that violence could be a neutral tool. Those who accepted the neutrality of violence were deeply influenced by Lenin, who over and over again argued that violence could be wielded in the name of a just cause, and that ultimately, the ends justified the means. I saw horrible abuses in the organizations to which I belonged of this idea of the neutrality of violence; often, violence directed towards women, but not towards women alone. The reason I was so concerned with what kind of violence was consistent with aspirations for a more just world was because one of the organizations I was in committed itself to armed self-defense to help protect the Black Panthers from what the organization saw as an assault by the government. I considered that form of self-defense legitimate, but because it remained un-thought-through, due to a Leninist hegemonic notion of the use of violence, I was concerned with political violence and its limitation. As a result, I rejected the idea of the neutrality of violence, and what I saw as the vulgar materialism that wrongly invested in the idea that if you changed the material conditions of production, the revolution had been achieved. I began to think about the relationship between material transformation of the means of production and the transformation of how we viewed ourselves as living and fighting together, so as to foreshadow the new society we were trying to bring into being. Simply put, I began to think about the need to defend ethical limitations on politics, but I never rejected, and never will reject the need for political struggle as the key to liberation.

This background is important to understand why I turned to the ethical from the beginning of my work. It also underscores that I never meant the term “ethical feminism” to replace political struggle, including the struggle against the material conditions of women’s oppression. But I did accept that easy appeals to gender, as if it was a grounded, self-evident empirical category, were misguided. Therefore,

my second use of the word "ethical" was that if we were to think of solidarity between women, we would have to think of the ethical relations between us that might allow solidarity to arise, and not just assume solidarity because we suffered shared oppression under a patriarchal regime. As a result, my thinking turned around a complex notion of "the feminine within sexual difference" rather than gender. I did not feel that feminism could do without a kind of thinking of the feminine within sexual difference, because if one simply sought an escape from the markings of the feminine, this attempted escape would reinstate the abjection of the feminine that lies at the heart of any patriarchal symbolic order and society.

Through an engagement with the works of Jacques Lacan, Luce Irigaray, and Jacques Derrida, amongst others, I tried to show that the feminine could be reworked through metaphor and myth, so as to open up a different way of being gendered, which at the same time did not deny the hold on us of a patriarchal symbolic order often reinforced by law. As a law professor, I was also deeply influenced by the limits of gender equality as the ideal that should guide feminist activism, including in the law. As a result, in 1995, I developed the aesthetic idea of the "imaginary domain," the moral and psychic space for each one of us to express and to reimagine our sexuate being beyond any so-called realities of how we are engendered.[3] I need to say something about the philosophical background of the imaginary domain. In *The Philosophy of the Limit*, I argued that deconstruction undoes the notion that we can know in advance what is impossible, and that it therefore opens a space for the reimagining of other possible social orders and views of justice.[4] But I further argued that if we take the ethical call seriously, it is not enough to note this space: we must actually dare to configure aesthetic ideas in order to render justice or any of the other great ideals sensible to those who are engaged in political struggle. My

[3] Drucilla Cornell, *The Imaginary Domain: Abortion, Pornography & Sexual Harassment*. New York: Routledge, 1995.
[4] Drucilla Cornell, *The Philosophy of the Limit*. New York: Routledge, 1992.

combination of the aesthetic and the ethical could not, then, rely on an ethical reading of deconstruction. I turned to Kant, and particularly the Kant of the *Critique of Judgment*, to argue that the great ideals cannot be known: they can only be figured, and further, that they *must* be figured if we are to be able to distinguish between different political struggles for hegemony.[5] For the difference between rightwing and leftwing politics turned then and turns now on the different ideals to which political movements aspire, and which regulate their struggle to attempt to create a better world in accordance with those ideals.[6]

I defended the imaginary domain not only as a moral right, but also as a better way of thinking how certain issues of feminist legal theory should be addressed, including abortion, sexual harassment, and pornography. Let me add that despite anyone's criticism of formal equality as an ideal for feminist legal activism, none of us would ever have entered the academy without the work of lawyers who brought down the barriers against women that prevented us from entering the profession. We are all in debt to those who tirelessly worked to challenge gender discrimination. But that said, my concern to rethink the feminine within sexual difference was not only to hold open a space for utopian possibility: it was also to recognize that the problem with the idea of woman or women was that it not only homogenized a group that was in fact very diverse, but that it operated to erase racial, cultural, and ethnic difference, an erasure that went against the very idea of what I had named "ethical feminism." Ethical feminism was grounded in a reworking of Levinas' notion of a non-violent relationship to the other; the aspiration to such a relationship would lead one to challenge racist exclusions that had come to haunt the second wave of feminism. As we have seen, however, this turn to the ethical was thought

[5] Immanuel Kant, *The Critique of the Power of Judgment*. Trans. Paul Guyer and Eric Matthews. Cambridge: Cambridge University Press, 2001.
[6] This is my disagreement with Ernesto Laclau's defense of populism in *On Populist Reason*. London: Verso, 2005.

against the background of how political struggle must always involve itself in thinking through the ethical limits on the means it engages in its efforts to create a better world.

I was not satisfied with the highly original, but in my view mistaken idea of intersectionality put forward by Kimberlé Crenshaw.[7] Crenshaw argued that we needed to think of gender, sexuality, race, and ethnicity as necessarily intersected with one another, and that this intersection would place women differently within the societies in which they lived, and of course within the law. For me, the problem with intersectionality was that it still reinscribed the notion that there was an "and" between, say, "black" and "woman." What we needed instead was an analysis of the way in which a black woman is a different configuration of the feminine within sexual difference from a white woman: there is no way to separate out the so-called two prongs within that identification, precisely because the identification is one in which they cohere from the beginning, in and through what I have called the imaginary domain. The danger of intersectionality is that despite its intent, it still reinscribes the notion that there is a gender that can be separated from how one is racialized, and how one in turn identifies with racialized difference.

Later, in *Between Women and Generations*, I was to distinguish between position, identity, and identification, in order to answer some of the charges of identity politics, particularly against those who were part of movements against racial and ethnic discrimination within the United States.[8] For me, the importance of position, with its Marxist overtones, is that there is a materiality to how we are placed in a society, which we cannot simply escape from by attempting to disidentify with who we have been shaped to be, particularly through certain kinds of privileges that accrue not only to race but also to

[7] Kimberlé Williams Crenshaw, "Mapping the Margins: Intersectionality, Identity Politics, and Violence against Women of Color." In *The Public Nature of Private Violence: Women and the Discovery of Domestic Abuse*. Ed. Martha Albertson Fineman. New York: Routledge, 1994, pp. 93-120.
[8] Drucilla Cornell, *Between Women and Generations: Legacies of Dignity*. New York: Palgrave, 2002.

class. For example, I may disidentify with the idea of whiteness, but I am positioned in society as a white woman, and that disidentification does not free me from that position. In fact, I have argued that the opposite is the case: it is necessary for white women, as part of the aspiration of ethical feminism, to recognize the position of privilege that accrues to them as white women, even when they struggle to disavow those privileges. Secondly—and this follows from an argument I made in *Beyond Accommodation*—a symbolic order has a materiality to it, as well as a history, and therefore there are certain identities that are formed over time, and which leave their imprint on all of us. Identifications are of course rooted in a psychoanalytic understanding of how this imprinting can never fully capture us, and therefore there is always a fluidity that leaves open the space for disidentification as well as resymbolization and reidentification. I saw movements such as Black Power within the United States as undertaking a complex process of resymbolization and reidentification, which did not reinscribe those movements in a victim identity that demanded recognition from the "white masters."

Although the thinking of race, class, and ethnic difference clearly influenced my rethinking of the feminine within sexual difference, I was not yet, in 1991, involved with a more complex effort to think through transnational feminism, even though I had already been an anti-imperialist activist. For the last eight years, I have been involved in what is called "The uBuntu Project" in South Africa, and I have lived in South Africa from 2007 to 2010.[9] During that time, I held the National Research Foundation Chair in Customary Law, Indigenous Ideals, and the Dignity Jurisprudence. There is simply no way to think about the living customary law, let alone indigenous ideals, with all the complexity that attends to the notion of the indigenous, without also having to rethink the very idea of modernity as some kind of aspirational ideal. In *The Philosophy of the Limit* I challenged the notion of postmodernity. My argument was that such a designation between historical periods ultimately reinscribed a philosophy of history in

[9] See *uBuntu and the Law: African Ideals and Postapartheid Jurisprudence*. Ed. Drucilla Cornell and Nyoko Muvangua. New York: Fordham University Press, 2011.

which each period could be given a set of categorizations that would allow it to be neatly delineated from other periods. In other words, it reinscribed a kind of simplistic Hegelianism, despite the frequent critiques of Hegel by postmodern critics. My work in South Africa deepened my concern, not only with postmodernity, but correspondingly, with the European roots of the modern as a set of ideals or institutions that have the effect of delegitimizing other intellectual heritages, particularly those heritages associated with formerly colonized peoples. Simply put, one cannot even begin to think the complex notion of the indigenous without challenging certain concepts of modernity, particularly as modernity often implies a kind of teleological notion of progress towards a modern European state.

Of course, it needs to be stated here that this does not mean that we return to any nostalgic notion of the pre-modern or the non-European as providing us with any easy alternatives to what we now know as modernity. As the philosopher Étienne Balibar rightly reminds us, there is a "universality as 'reality'" that is brought about by global capitalism, which is about as far as one can imagine from the more optimistic ideas about how the modern can ultimately provide us with ethical and political solutions to the searing oppressions faced by many of the world's people, both in the North and the South.[10] Gayatri Chakravorty Spivak, amongst others, always reminds us that violence comes not only in the form of exploitation or super-exploitation of the work force of the Global South, but also as epistemic violence. If we give the modern a strong philosophical justification, then that which cannot be rationalized as modern falls below the bar of what can be taken seriously, if it can be heard at all. Put somewhat differently, and in Spivak's terms, the idea of a telos to an inevitably progressive modernity can make us unable to see or hear the resistances of the subaltern, as they seek to challenge hegemonic forms of social and symbolic life. The modern, in other words, can undo our ability to heed the symbolic, as well as the institutional structures that support subaltern resistance (one such support could be

[10] Étienne Balibar, *Politics and the Other Scene*. Trans. Christine Jones, James Swenson, and Chris Turner. New York: Verso, 2002, p. 147.

ethical ideals such as uBuntu). When Spivak wrote in her rightfully famous essay that the subaltern could not speak, she did not mean it literally.[11] As she explains in a 2010 essay:

> The point that I was trying to make was that if there was no valid institutional background for resistance, it could not be recognized. Bhubaneswari's resistance against the axioms that animated sati could not be recognized. She could not speak. Unfortunately, for sati, a caste-Hindu practice, there *was* an institutional validation, and I unraveled as much of it as I could. My point was not to say that they couldn't speak, but that, when someone did try to do something different, it could not be acknowledged because there was no institutional validation. It was not a point about satis not speaking.[12]

Of course, Spivak also reminds us of the dangers of reverse ethnic sentimentality, as if there were people who are pure, and have managed to escape from the underside of modernity and the brutal realities of advanced capitalism that Balibar associates with "universality as 'reality.'" My point is only that we need to have a strong critique of the modern, as it is used to stand in for a notion of progress that delegitimizes intellectual heritages and forms of thought that are mistakenly designated as pre-modern, irrational, or simply uncivilized.

In his excellent book, *Caliban's Reason*, Paget Henry uses *The Tempest* to show how the figure of the black other has been turned into a monster who cannot think and must be saved from his irrationality and violence by the civilizing other, who will bring all the benefits of modernity to him.[13] For example, Henry has rightly argued that the rich philosophical and spiritual heritages of the Yoruba

[11] Gayatri Chakravorty Spivak, "Can the Subaltern Speak?" In *Marxism and the Interpretation of Culture*. Ed. Cary Nelson and Lawrence Grossberg. Urbana, IL: University of Illinois Press, 1988, pp. 271-313.
[12] Gayatri Chakravorty Spivak, "In Response: Looking Back, Looking Forward." In *Can the Subaltern Speak? Reflections on the History of an Idea*. Ed. Rosalind Morris. New York: Columbia University Press, 2010, pp. 227-236, p. 228.
[13] Paget Henry, *Caliban's Reason: Introducing Afro-Caribbean Philosophy*. New York: Routledge, 2000.

religions have been completely discredited, even by those who have developed revolutionary African existentialist philosophies. The Yoruba religions include Santeria, Candomblé, and Voodoo, which came to the New World, including the Caribbean islands, during the Middle Passage of the slave trade. Henry has certainly made an important contribution to the critique of a moral notion of the modern. For Henry, there are five distinguishing characteristics of how intellectual heritages of formerly colonized peoples come to be marked as peripheral or, in his words, "Calibanized." First, imperial conquest demands the need to claim hegemony and legitimacy for the conquerors. Second, the state, in order to legitimate itself, depends on the production of symbolic forms that in a profound sense invert the world. Unethical oppression is defended as a moral necessity. The other side of this inversion is that competing African systems of thought must be completely delegitimized. Imperialism, then, must foster a colonial asymmetry of what constitutes legitimate knowledge, by creating a slighted canonical reading of, for instance, Afro-Caribbean philosophical and spiritual traditions, that renders them as something that must be overcome, as an impediment to so-called civilization and modernization. Third, the battle to dismiss Caliban leads the state to intervene in the educational process, to create an intellectual elite that is deprived of knowledge of its own local intellectual heritage. For Henry, this underscores the divergence between local centers of cultural and intellectual production in the Global South, and those that are seen as legitimate modern sites of culture, particularly philosophy. Fourth, these peripheral systems, which are systematically underdeveloped by the state apparatus and imperial education system, underscore a crisis of identity, because one can only identify as educated if one disidentifies with one's own intellectual heritages. According to Henry, this leads to a profound crisis of ego identity, which of course has been beautifully described in Frantz Fanon's work, *Black Skin, White Masks*.[14] Fifth, racialization is what ultimately turns the local traditional heritages into so-called peripheral outliers. All

[14] Frantz Fanon, *Black Skin, White Masks*. Trans. Richard Philcox. New York: Grove Press, 2008.

of these components are part of Henry's challenge to Jürgen Habermas, who is one the great thinkers of modernity as implying a telos that might point us to a way beyond the real universality which Balibar brilliantly describes in all its ugliness.[15]

I have discussed my own and Henry's critique of Habermas in my recent book written with Kenneth Michael Panfilio, *Symbolic Forms of a New Humanity*, so I will not write more about that critique of Habermas here.[16] But I do want to return to myth as it inheres in the metaphoric aspect of language, since the last chapter in *Beyond Accommodation* insisted on the importance of myth for feminist theory. In both *Symbolic Forms of a New Humanity* and my 2008 book, *Moral Images of Freedom*, I relied on the work of the philosopher Ernst Cassirer to provide a more comprehensive framework as to why myth cannot be separated from language.[17] Cassirer uses the phrase "word magic" to describe how language itself connotes a world that can never be completely disenchanted. Word magic fixes something with a name, such that in itself it is reality. In other words, what is real can never be separated from the mark of ideality. The thought of finite creatures is always in language, and language is always embedded in a symbolic order, with competing variations and plural definitions of the meaning of reality. This mark of ideality should not be confused with any kind of naïve idealism.[18] Thus, to mimetically interact with myth, bound by what Cassirer calls word magic, is to encircle and reconfigure reality in its archetypical narrative. This mimetic interaction will inevitably change the fundamental understanding of reality within a symbolic world. If word magic is a substantive being and

[15] See Jürgen Habermas, *The Philosophical Discourse of Modernity*. Trans. Frederick G. Lawrence. Boston: MIT Press, 2000.
[16] Drucilla Cornell and Kenneth Michael Panfilio, *Symbolic Forms for a New Humanity: Cultural and Racial Reconfigurations of Critical Theory*. New York: Fordham University Press, 2010.
[17] Drucilla Cornell, *Moral Images of Freedom: A Future for Critical Theory*. New York: Rowman & Littlefield, 2008.
[18] In his recent book on Hegel, Fredric Jameson reminds us of this point by citing Hegel: "This ideality of the finite is the chief maxim of philosophy; and for that reason every genuine philosophy is idealism." Hegel, *Encyclopedia of Logic*. Trans. William Wallace. Oxford: Clarendon Press, 1975, p. 140. Cited in Fredric Jameson, *The Hegel Variations*. New York: Verso, 2010, p. 30.

power in the first instance, then it is not something we can get over in modernity because it is the way human beings confront reality.

Certainly, myself and Paget Henry, who also embraces mythico-poetical thinking as a necessary part of transformative philosophy, understand that the reconfiguration of myth is a precarious task. It is one in which we delve into the very symbolic world that has given rise to that which demands reconfiguration, in the case of *Beyond Accommodation*: the feminine within sexual difference. The constant struggle of language to move beyond itself, and bring to life what is our reality, is what Cassirer refers to as the importance of the "hypostatization of the Word":

> And yet, this very hypostatization of the Word is of crucial importance in the development of human mentality. For it is the first form in which the spiritual power inherent in language can be apprehended at all; the Word has to be conceived in the mythic mode, as a substantive being and power, before it can be comprehended as an ideal instrument, an organon of the mind, and as a fundamental function in the construction and development of spiritual reality.[19]

Yet it is precisely this hypostatization of the Word that always carries within it an ideality that allows the reconfiguration of mythic reality, because myth and word magic take us back to metaphoric transference, and the "as if" that has been frozen can be put back into life.[20] For someone like Paget Henry and myself, then, myth, and mythico-poetical thinking, is not pre-modern, nor is it part of some kind of conception of a finished project of modernity such as that advocated by Habermas. For Henry, the rejection of mythico-poetical thinking is part of the Calibanization of Afro-Caribbean philosophy and African existentialism. In *Beyond Accommodation* and other books, I have shown how feminist writing,

[19] Ernst Cassirer, *Language and Myth*. New York: Dover, 1953, p. 62. Cited in *Symbolic Forms for a New Humanity*, p. 57.
[20] For a much more elaborate discussion of Cassirer, see the first two chapters of *Symbolic Forms for a New Humanity*.

and not just literary writing, has engaged with the reconfiguration of myth to open up transformative possibilities that have been obscured by a patriarchal symbolic order. As I argued in *Beyond Accommodation*, Tony Morrison's use, in her novel *Beloved*, of the killing mother told through the life of a slave explodes some of the fantasies associated with what seems to be the worst kind of murder, one tabooed by the very ideal of motherhood.[21]

One last note. In all of his work, Henry insists on what he calls both the historicist and the mythico-poetical aspect of revolutionary transformation. As I have already indicated, I am in complete agreement with him that we must remain faithful to the need for a socialist politics, even if we only need to constantly rethink what socialism demands. In *Beyond Accommodation*, I argued that it was a mistake to contrast so-called "materialist" feminism, which focused on the actual oppression of women, with the seemingly "elitist" French feminist writing, which appeared to be endlessly self-referential and supposedly left women's oppression untouched. I made this argument for two reasons. First, as I have already argued, there is no materiality outside of the symbolic order. That we are always already in language has become a commonplace understanding of how the world comes to us. But my focus on feminine writing, and particularly on myth and metaphor, was not to underscore that there can be a conventional and shared reality, but rather to try to demonstrate how changing the way in which we see the world and ourselves actually has material effect. Secondly, I did so to challenge the so-called realism of feminists who argued that the material of women's oppression was so overwhelming that every escape just turned into another barrier to our freedom and equality, and that therefore, imagining otherwise is an empty, useless fantasy. My critique of Catharine MacKinnon was precisely that, because she gives us a so-called "materialist" account of our oppression that encloses us in a reality in which the only hope for transformation is the complete undoing of the system. There is no reform project, or even

[21] Toni Morrison, *Beloved*, New York: Alfred Knopf, 1987.

a transformative project, within a patriarchal order. All we can do is refuse our sexed position by literally not having sex, while relentlessly exposing the brutality to women of this patriarchal order. But all this said, I at no time wanted to deny that women's oppression must also unite itself with struggles for a true transformation of the capitalist order. I was then, and continue to be, an ally of a certain kind of socialist feminism. Ultimately, all of my work has been inspired by Marx's famous thesis: "The philosophers have only *interpreted* the world, in various ways; the point is to *change* it."[22]

[22] Karl Marx, "Theses on Feuerbach." In *The German Ideology*, part 1. Ed. C. J. Arthur. New York: International Publishers, 2007, p. 123.